

REPORT TO	DATE OF MEETING
LICENSING PANEL	10 th November 2015

Report template revised June 2008



SUBJECT	PORTFOLIO	AUTHOR	ITEM
APPLICATION TO DETERMINE A NEW PREMISES LICENCE APPLICATION UNDER S18 OF THE LICENSING ACT 2003 – THE KEBAB HOUSE, 16 CHAPEL BROW LEYLAND LANCASHIRE PR25 3NE	REGENERATION & LEISURE	WAJED IQBAL	4

SUMMARY AND LINK TO CORPORATE PRIORITIES

An application was submitted by Mr Waseem Wajid, of 52 Shearbroow Blackburn BB1 8EA on 18th September 2015 for a new premises licence under S17 of the Licensing Act 2003, in respect of the Premises known as The Kebab House, 16 Chapel Brow Leyland Lancashire PR25 3NE.

The application could have an impact on several of the Council’s Corporate Priorities. It should be borne in mind however, that the application must be determined in accordance with the Licensing Act 2003, Council’s Licensing Policy Statement and the statutory guidance issued under Section 182 of the Licensing Act 2003.

RECOMMENDATIONS

The Sub-Committee conduct the hearing in accordance with the hearing procedure and decide accordingly.

DETAILS AND REASONING

Mr Wajid made an application for the grant of a new premises licence to cover the licensable activity at the premises being the provision of Late Night Refreshment. Attached is a copy of the Application form submitted by Mr Wajid (**see Appendix 1**).

In short Mr Wajid wishes to be open to provide Late Night Refreshment until midnight on Sunday to Thursday and until 02:00 on Friday and Saturday nights.

Representations from Responsible Authorities

There were TWO representations received in relation to this application and these were from the following Responsible Authorities:

1. Lancashire Constabulary

The Police have made a representation against the granting of this application, as they believe that it would undermine the licensing objectives of Crime and Disorder and Public Safety, (**see Appendix 2**).

In this, the Police have stated the applicant is known to them and has a history of violence and contempt for authority as well as the law. In February 2015, during a multi-agency operation, the premises were found to be abstracting electricity whilst Mr Wajid was present and the premises were shut down due to the electric meter being unsafe.

The Police believe the applicant has been in control of the said premises since 2010 which is around the time when the previous Premises Licence was surrendered.

In September 2015, the applicant was convicted at Preston Magistrates for the offence of providing a licensable activity without authorisation contrary to section 136 Licensing Act 2003.

The Police feel there is sufficient provision for late night refreshment within the area which has been the subject of various public disorder incidents resulting in criminal damage to a number of properties.

The Police's position is that they would wish for the application to be refused. If however the Committee are minded to grant the Premises Licence, the Police have forwarded several conditions they are requesting be attached to the licence along with any other others they deem necessary. These are highlighted in their representation **(see Appendix 2)**.

The Police would seek to make it clear that their position is for refusal of the premises licence application and the tendering of the attached conditions in no way changes that position.

2. The Licensing Authority

The Licensing Authority has made a representation against the granting of the application **(see Appendix 3)**.

In this, it is stated the premises did benefit from a Premises licence from 2008 until 2010 after which it was surrendered.

The Licensing Authority of South Ribble Borough Council became aware that the applicant was trading after 11:00pm without the relevant licence in force on 11th February 2015 during a multi-agency operation. A written warning was issued to Mr Wajid for trading contrary to section 136 Licensing Act 2003, **(see Appendix 4)**.

An application was provided to Mr Wajid and he submitted a partially completed application dated 4th March 2015 to the Licensing Office which was subsequently returned to him along with a letter dated 26th March 2015 **(see Appendix 5)**.

On the 17th April, the application was re-submitted but again this was still not fully completed. He was written to on the 30th April 2015 **(see Appendix 6)** saying his application was suspended and he was informed of what was required for the application to be accepted. No response was received after this from Mr Wajid.

On 21st August 2015, during a joint operation with Lancashire Constabulary, a compliance visit was undertaken to the premises and hot food was sold to an Authorised Officer being Niky Barrett. Throughout this transaction, Mr Wajid was present within the premises and other customers came into the premises and ordered food for which payment was taken.

Following his arrest on 27th August, Mr Wajid disclosed during the formal PACE interview that he had taken full responsibility for the business in 2010 and prior to that he had run it jointly with the previous Premises Licence holder. Mr Wajid confirmed that he had been open until midnight during the week and later at weekends. He was adamant that as he had paid for a licence he was entitled to carry out such activities.

Mr Wajid was subsequently charged and pled guilty at Preston Magistrates on 17th September 2015 to 1 count of providing a licensable activity contrary to section 136(1) of the Licensing Act 2003. He was ordered to pay £510 in total (£250 fine, £25 Victim Surcharge, £85 Costs and £150 Criminal Court fees)

Following the court case, Mr Wajid finally completed the application process; however, his application does not indicate any measures he intends to take to promote the licensing objectives.

The Licensing Enforcement Officer acting as the Licensing Responsible Authority considers that Mr Wajid has been consistently argumentative and dismissive of all advice given to him this year.

The Licensing Enforcement Officer concludes that Mr Wajid has not provided any evidence to show that the granting of a licence to him would not undermine the Licensing objectives.

Licensing Act 2003

The Council must carry out its licensing functions with the intention of promoting the licensing objectives.

The licensing objectives are:-

- a) The prevention of crime and disorder;
- b) Public safety;
- c) The prevention of public nuisance; and
- d) The protection of children from harm.

The Council must also have regard to:

- 1. Its own Policy Statement;
- 2. Secretary of State guidance (Section 182 of the Licensing Act 2003).

The Legislation

Under Section 18 Licensing Act 2003 where relevant representations are made to an application for a premises licence, the authority must hold a hearing to consider them. The Authority must have regard to the application and any relevant representations and take such steps (as are outlined below)... if any, as it considers necessary for the promotion of the licensing objectives.

The steps are:-

- a. to grant the licence subject to the inclusion of such conditions and permitted hours as it sees fit
- b. to reject the application

The Hearing will be carried out in accordance with our normal hearings procedure – please see **Appendix 7**.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

FINANCIAL	There are no financial implications
LEGAL	The Licensing Authority are under a statutory duty to facilitate the Hearing. When determining this hearing the Council must comply with the rules of natural justice. Any party at the hearing has a right to appeal the decision to the Magistrates Court.

RISK	The full risk assessment forms part of the background papers to this report. The main points for consideration are summarised. Also refer to the legal risks identified above.
-------------	--

THE IMPACT ON EQUALITY	There is no impact on equality. No one is barred on equality reasons from either making an application or a representation either for or against an application
-------------------------------	---

OTHER (see below)	
--------------------------	--

<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

Risk Assessment